

6/19/2019 Interim Meeting Notes

Education

1. **Compulsory Education, Truancy, and Chronic Absenteeism:** The committee discussed issues surrounding truancy and chronic absenteeism in Utah recommendations to address this issue.
 - **Patty Norman, Deputy Superintendent of Student Achievement, Utah State Board of Education and Corby Eason** gave a [presentation](#) on the safe and healthy school mission. Absenteeism impacts student achievement. Focused on having clear definitions of measures, consistent and reliable data aides in pinpointing supports needed, LEA (local education agency) requested guidance regarding chronic absences that are unexcused. There is a plan to run HB 340 again in the 2020 session to:
 - Provide schools and districts with a uniform definition of absences in the context of truancy
 - Maintain the current ability of a school to track and define absences for other purposes
 - Provide clarity around which grade level requirements for attendance and truancy requirements apply*
 - **Neira Siaperas, Juvenile Court Administrator**, gave a [presentation](#) on HB 239 and HB 132 in relation to truancy. Neira also provided an overview of the truancy process if the minor was referred to juvenile court for truancy, the current data of truancy referrals, and the option of truancy mediation. Truancy mediation can be utilized before a referral to court, in FY19, 145 of the 159 referrals were requested before a court referral. This number indicates schools are utilizing this resource without having to go through a court referral.
 - **Conclusion: No action, information only**

Judiciary

1. **Review of Appellate Decisions that Call for Legislative Action:** The Utah Court of Appeals and the Utah Supreme Court in writing opinions sometimes suggest to the Legislature to take some action such as clarifying a certain provision of the statute, addressing a circumstance not addressed in the statute, reviewing whether the outcome of a statute was intended, or revisiting an issue. Jacqueline Carlton, committee staff attorney reviewed the [2018-2019 appellate decisions](#) that call for legislative action. The committee discussed how to proceed.
 - **State v. Burr 2018 UT 63, 435 P.3d 198:** Challenge to the Pay-to-Stay Statute (Utah Code § 76-3-201) • The Utah Supreme Court concluded that because the defendant's case was closed upon sentencing and the defendant brought the issue after the case was closed, neither the district court nor the Utah Supreme Court has jurisdiction to address the defendant's concerns about the statute • Call: There is a need for legislative intervention to clarify the pay-to-stay statute and the Utah Supreme Court hopes that the Legislature will intervene to clarify the law to forestall some of the issues raised by the case
 - **Rep. Pitcher mentioned, [2019 General Session HB 414S1](#), that passed required CCJJ to look at restitution reporting. Some of the issues that is brought up by this case may be addressed with CCJJ's study. Made a motion for the**

committee to study this case in conjunction with CCJJ. Sen. Weiler made a substitute motion to open a committee bill file, motion passes unanimously.

- ***State v. Coombs, 2019 UT App 7, 438 P.3d 967:*** Defendant challenged his sentence by arguing that his plea counsel failed to argue for proportionality under the interest-of justice analysis established by the Utah Supreme Court in *LeBeau v. State* • The Utah Court of Appeals concluded that Defendant's counsel did not act deficiently by not raising the analysis and the Sentencing Court was not required to engage in the analysis without the prompting of the parties • Call: Criticism of *LeBeau* as policy-based review of legislative action
 - ***Rep. Brammer recommends no legislative action, believes this should be left to interpretation of the courts***
- 2. **Victim Address Confidentiality:** The committee received a brief on the address confidentiality program for victims of violent crime ([2019 General Session HB 451](#)).
 - *Representative Stephanie Pitcher, study sponsor and Darcy presented. 39 other states have this type of program. Colorado serves 3500 victims annually. CCJJ will be the agency that runs this program and has worked collaboratively with CCJJ on the fiscal note. The primary funds will be focused on the database running this.*
 - *Sen. Hillyard's only concern is related to children visitation between parents who are divorced. Built in the bill is that the applicant has to reside in Utah, and the applicant has to report to CCJJ if they are in the process of a custody matter.*
 - **Conclusion: No action, information only**
- 3. **Asset Forfeiture:** In the May meeting, the committee reviewed the Utah Supreme Court's decision in [Savely v. Utah Highway Patrol](#), 2018 UT 44 and opened a committee bill file. The committee considered [draft legislation](#) addressing asset forfeiture.
 - *Jacqueline Carlton, committee staff attorney walked through the bill.*
 - *Line 167: jurisdiction statute – clarifies subject matter jurisdiction.*
 - *Lines 224-221: clarifies custody, clarifies on what is meant by court*
 - *Lines 902: added language on equitable sharing, they have to report it to CCJJ, if they violate the chapter then they are ineligible for the state asset forfeiture grant program.*
 - *Lines 985: cannot disqualify an agency from applying for the grant program if they do not participate.*
 - *Sen. Weiler wanted feedback on the draft.*
 - *Dan Burton with AGs office: Would like the bill to address truancy, consistency, and oversight on law enforcement. Would like to continue conversation with Sen. Weiler.*
 - *Connor Boyack with Libertas: Emphasized the broader conversation on forfeiture still exist but the draft legislation is narrow.*
 - *Jeff Buhman with SWAP: Savely was narrow and believes the existing code on asset forfeiture, line 874 (already existed in the bill) about transfer processes should be clarified.*
 - *Sen. Hillyard wants stakeholders to have written feedback to Sen. Weiler on specific issues on the bill.*
 - **Conclusion: No formal action, Sen. Weiler will work on another draft with stakeholders.**

4. **Assessment and Treatment of a Substance Use Disorder:** Rep. Shurtliff presented on [2019 General Session, HB 359S2](#), this bill is related to the private entity who are for profit. For low-risk, low-need offenders from the justice courts (Rep. Shurtliff said this is mainly where minors are). When treatment is not needed, does treatment for substance abuse do more harm than good? If so, is treatment occurring when treatment is not needed (overtreatment)? How much? If so, what is causing the overtreatment? Is there a financial conflict of interest for a for-profit entity who both: 1) assesses an individual to determine if substance use disorder treatment is necessary; and 2) provides the substance use disorder treatment to the individual? Are some for-profit entities overtreating? How is unethical behavior reported? Is there a solution to reducing or preventing overtreatment? An owner of an assessment firm reported the justice courts from Provo, Weber, and Box Elder County has this problem of assessment and treatment.
- *Michael Drechsel, Administrative Office of the Courts*
 - *A judge would not be able to order an assessment until post adjudication. There are times a judge can recommend the defendant get an assessment in plea hearings. The judge can order an assessment but not actual be able to order treatment. Judges are open to ordering a second assessment if the treatment recommendations are questionable. Judges are worried that adding an additional requirement of finding a treatment provider may bear more of a burden on the defendant, and also the options for treatment services may be limited in some areas.*
 - *Brent Kelsey, Division of Substance Abuse and Mental Health, Department of Human Services*
 - *Emphasized the development of the JRI certification, established a certification program for providers list that is given to judges. Highlighted the point that it will take time for all the moving parts to work.*
 - *Christina Zidow, Odyssey House*
 - *Addressed a bifurcated system of assessment and treatment. A bifurcated system has harmful consequences. The main consequence is the waiting burden on the individual who need treatment, and utilization of more resources in the system that may be unnecessary.*
 - *Santiago Cortez, USAAV*
 - *Addressed USAAV's concerns on the proposed bill. Highlighted the JRI certification allows a process to exist where unethical practices can be addressed.*
 - *Will Carlson, SL DA, supported Rep. Shurtliff in her efforts to separate assessment and treatment*
 - **Conclusion: No Action, information only. I don't believe the problem of Rep. Shurtliff's bill was addressed. The committee members did not appear to fully understand what Rep. Shurtliff's bill was trying to do. The committee members, especially Sen. Escamilla appeared more concern about the standardization and ethics of assessment, treatment, and effective outcomes.**

Law Enforcement and Criminal Justice

1. **Domestic Violence:** The committee heard issues regarding prevention and effective responses to domestic violence in the state.

- *Rep. Cheryl Acton presented on general thoughts and concerns on DV*
 - *Doesn't have plans to open a bill file just yet.*
- *Ned Searle, Utah Office on Domestic and Sexual Violence gave some statistics on DV*
 - *Ned invited Teresa Brecklin from Dept. of Health to give some information on the lethality assessment*
- *Jennifer Oxborrow, Executive Director, Utah Domestic Violence Coalition*
 - *Gave a presentation with JC Hold on the lethality assessment. Emphasized on prevention of domestic violence homicides, 42% of all homicides are related to DV. Highlighted the importance of ERPO and red flag laws that can prevent dv homicides.*
- **Conclusion: No action, information only.**

2. Public Safety Communications: The committee received a presentation from the Utah Communications Authority on the effectiveness of communications of law enforcement statewide.

- *Dave Edmunds, Director, Utah Communications Authority*
- *Travis Sylvester, Radio Division Director, Utah Communications Authority*
- *Harold Clements, Radio Division Staff, Utah Communications Authority*
- *Quinton Stephens, General Counsel, Deputy Director, Utah Communications Authority*
- **Conclusion: No action, information only.**

3. Crime Data Reporting: The committee will study the current state of statewide jail data accessibility.

- *Sofia Nystrom and David Walsh, Commission on Criminal and Juvenile Justice, gave a presentation on data sharing strengths and gaps. Highlighted the importance of data sharing between all of the stakeholders including the jails. There were no questions from the committee.*
- **Conclusion: No action, information only.**

4. Master Offense List: Per Utah Code Section 63M-7-405, the Sentencing Commission presented the updated master offense list to the committee.

- *Marshall Thompson, Director, Utah Sentencing Commission, presented the list. Rep. Miles asked how do we compare to surrounding states? Marshall said it's hard to compare. One rep. asked does holding a raccoon captive a crime? Marshall said – used to be class B misdemeanor but is now an infraction.*
- **Conclusion: No action, information only.**